

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO, : PROMESA  
: Title III  
as representative of : Case No. 17-BK-3283 (LTS)

THE COMMONWEALTH OF PUERTO RICO, *et al.*, :

Debtors.<sup>1</sup> : Case No. 17-BK-3566 (LTS)

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO, : PROMESA  
: Title III  
as representative of : Case No. 17-BK-3566 (LTS)

THE EMPLOYEES RETIREMENT SYSTEM OF THE  
GOVERNMENT OF THE COMMONWEALTH OF  
PUERTO RICO, :

Debtor. : Case No. 17-BK-3566 (LTS)

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<sup>1</sup> The Debtors in these Title III cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481), (ii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566(LTS)) (Last Four Digits of Federal Tax ID: 9686), (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808), and (iv) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747).

**INFORMATIVE MOTION OF OFFICIAL COMMITTEE OF UNSECURED CREDITORS REGARDING SCHEDULING OF DISCOVERY AND BRIEFING IN CONNECTION WITH MOTION OF CERTAIN CREDITORS OF EMPLOYEES RETIREMENT SYSTEM OF GOVERNMENT OF COMMONWEALTH OF PUERTO RICO FOR RELIEF FROM AUTOMATIC STAY**

To the Honorable United States District Judge Laura Taylor Swain and the Honorable United States Magistrate Judge Judith Gail Dein:

The Official Committee of Unsecured Creditors of all Title III Debtors (other than COFINA) (the “Committee”) respectfully submits this informative motion regarding the schedule of discovery and briefing in connection with the *Motion of Certain Secured Creditors of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico for Relief from the Automatic Stay* [Docket No. 289] (the “Stay Relief Motion”) to inform the Court of the Committee’s request that any revised scheduling order issued in connection with the Stay Relief Motion include the Committee’s participation.

1. Importantly, the Stay Relief Motion is not an adversary proceeding in which the Committee, in accordance with the Court’s past rulings in these cases, would need to file a motion to intervene (or similar motion) to participate. Rather, the Stay Relief Motion is a contested matter in which the Committee has an absolute, automatic right to fully participate pursuant to section 1109(b) of the Bankruptcy Code. Consistent with such participation rights, on July 10, 2018, the Committee filed a joinder [Docket No. 296] (the “Joinder”) in the objections of the Debtor<sup>2</sup> and the Official Committee of Retired Employees of the Commonwealth of Puerto Rico to the Stay Relief Motion. The Committee intends to continue to participate in the litigation until its conclusion.

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<sup>2</sup> Capitalized terms not defined herein have the definitions set forth in the *Urgent Motion of Debtor Regarding the Scheduling of Discovery and Briefing in Connection with the Motion of Certain Secured Creditors of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico for Relief from the Automatic Stay* [Docket No. 388] (the “Debtor’s Scheduling Motion”).

2. On February 21, 2019, Movants filed an *Urgent Motion to Expedite Consideration of Motion of Certain Secured Creditors of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico for Relief from the Automatic Stay* [Docket No. 367] (the “Motion to Expedite”), seeking a schedule for litigating the Stay Relief Motion. Despite the Committee’s statutory rights and the fact that it had filed the Joinder, Movants did not include the Committee in their proposed schedule. On February 25, 2019, the Court entered its *Order Granting Urgent Motion to Expedite Consideration of Motion of Certain Secured Creditors of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico for Relief from the Automatic Stay* [Docket No. 371] (the “Scheduling Order”). The Scheduling Order does not mention the Committee.

3. Since the entry of the Scheduling Order, the Committee has on multiple occasions informed both Movants and the Debtor, through the FOMB, that the Committee intends to participate in the litigation of the Stay Relief Motion and asked that it be included in any revised proposed schedule(s) submitted to the Court.

4. On March 14, 2019, Movants and the Debtor each filed competing urgent motions requesting the entry of a revised schedule. The proposed schedule attached to the Debtor’s motion (the “Debtor’s Proposed Schedule”) states that the Committee “shall participate in the litigation by (i) filing any briefs on the same schedule as the Oversight Board, (ii) being heard at any hearing(s), (iii) receiving copies of all documents and information served in discovery, and (iv) attending all depositions.”<sup>3</sup> The Committee consents to the entry of the Debtor’s Proposed

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<sup>3</sup> See Debtor’s Scheduling Motion at Ex. A ¶ 3.

Schedule containing such language. Movants' proposal,<sup>4</sup> however, does not specifically mention the Committee's participation.

5. The Committee submits this informative motion to make clear its request that any revised schedule entered by the Court expressly include the Committee's continued participation in the litigation. Although the Committee has the statutory right to participate fully in all aspects of the litigation, including without limitation the right to serve its own discovery requests, the Committee is mindful of the need to maximize efficiency in these Title III cases. The Committee will therefore endeavor to coordinate with the Debtor as much as possible.

*[Remainder of page left intentionally blank.]*

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<sup>4</sup> See *Urgent Motion Regarding the Scheduling of Discovery and Briefing in Connection with the Motion of Certain Secured Creditors of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico for Relief from the Automatic Stay* [Docket No. 389].

Dated: March 15, 2019

/s/ Luc A. Despins

Luc. A. Despins, Esq. (*Pro Hac Vice*)

**PAUL HASTINGS LLP**

200 Park Avenue

New York, New York 10166

Telephone: (212) 318-6000

lucdespins@paulhastings.com

Nicholas A. Bassett, Esq. (*Pro Hac Vice*)

**PAUL HASTINGS LLP**

875 15th Street, N.W.

Washington, D.C. 20005

Telephone: (202) 551-1700

nicholasbassett@paulhastings.com

*Counsel to the Official Committee of Unsecured Creditors for all Title III Debtors (except for COFINA)*

– and –

/s/ Juan J. Casillas Ayala

CASILLAS, SANTIAGO & TORRES LLC

Juan J. Casillas Ayala, Esq., USDC - PR 218312

Diana M. Batlle-Barasorda, Esq., USDC - PR 213103

Alberto J. E. Añeses Negrón, Esq., USDC - PR 302710

Ericka C. Montull-Novoa, Esq., USDC - PR 230601

El Caribe Office Building

53 Palmeras Street, Ste. 1601

San Juan, Puerto Rico 00901-2419

Telephone: (787) 523-3434

jcillas@cstlawpr.com

dbatlle@cstlawpr.com

añeses@cstlawpr.com

emontull@cstlawpr.com

*Local Counsel to the Official Committee of Unsecured Creditors for all Title III Debtors (except for COFINA)*